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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,771	01/16/2002	W. Michael Anderson	MS1-869US	7777

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EXAMINER

BAYERL, RAYMOND J

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,771

Applicant(s)

ANDERSON ET AL.

Examiner

Raymond J. Bayerl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 4, 6 - 8, 10 - 15, 17 - 22, 25 - 29, 32 - 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 4, 6 - 8, 10 - 15, 17 - 22, 25 - 29, 32 - 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4 April 2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 4, 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

An apparent typographical oversight has introduced uncertainty into the "(Original)" claim 4, where the 2 May 2005 copy reads "An in-vehicle audio browser as recited in claim 4". The Examiner has presumed instead that applicant intended the original parent claim 1 to be recited. A similar problem arises in the copy of "(Original)" claim 32, where the parent is given as "claim 0". Parent claim 26 has instead been presumed.

3. Claims 1 – 4, 6 – 8, 10 – 15, 17 – 22, 25 – 29, 32 – 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clayton et al. ("Clayton"; US #6,725,022) in view of applicant's own admission as to prior art in the present specification.

As per independent claim 1's "in-vehicle audio browser", Clayton, in ENABLING THE SELECTION OF CONTENT ON A WIRELESS COMMUNICATION DEVICE, provides for [a]n internet radio for portable applications and uses such as in an automobile (Abstract). The multimedia device 20 of Clayton specifically includes a display screen 160 that is accompanied by a number of button controls (fig 2; col 9, lines 1 – 51). For "a first set of buttons configured to select a preset item", Clayton has preset button 166 controls. The "second set of buttons configured to move forward and backward through a list of items" reads directly upon the channel selector buttons 162a,

by which the user can see all the channels available within a subcategory (col 9, lines 30 – 61). The “fourth button configured to activate a function that varies depending on the selected band” has a parallel in the action buttons 172, whose purposes may change from program to program (col 10, lines 26 – 36).

While Clayton permits the navigation of information channels by browsing through them (up, down, forward, back), Clayton does not **explicitly** teach the addition of a “third button configured to select between a first list of items and a second list of items associated with the audio browser”, where these are each a “plurality of bands”. However, in the prior art situation of multiple bands noted by applicant at pages 1 – 2 of the present specification, it is noted by applicant that a selected band is the basis for further selections among the content such as AM, FM1, FM2, and CD that were typical in a car stereo at the time of applicant's invention.

Thus, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to provide for a broader selection “between” “a first plurality of bands” and “a second plurality of bands” as per the admitted prior art, in arriving at the variety of services available as information channels in Clayton, because Clayton indeed incorporates such a variety that whole categories of information services should be more properly segregated in such a way than though membership in a selection tree such as is navigated by button 162.

The amended claim 1 also recites a selection between “a plurality of bands including primary audio control bands” and “conditional audio control bands”. However, Clayton also has such a division between service types: The two types of channels

preferably available are audio broadcasts (e.g., AM, FM, TV, digital, Internet audio broadcasts and recorded material) and personal information services (e.g., navigation, email, traffic alerts, etc.). (col 5, line 67 – col 6, line 13).

As per claim 2's "radio band", "CD player band", these were known in the "in-vehicle audio" systems of the prior art, as seen in applicant's own admission.

Claim 3's "conditional audio control bands" that include "digital media" reads upon the digital audio or Internet audio broadcast that can be invoked in Clayton (col 6, lines 44 – 54). Note the further correspondence of Clayton to claim 3: a "navigation band" (Clayton's navigation services; col 11, lines 57 – 66), a "contact list band" (Clayton's incorporation of Personal directory data from phone books, address books and to-do lists; col 12, lines 42 – 52) and a "telephone task band" (Clayton's capacity to call a phone number from an advertisement; col 10, lines 26 – 36).

As per claim 4's "display configured to identify the selected band", please note that the display screen 160 in Clayton's fig 2 has a SELECTED CHANNEL DISPLAY in the main client region. This indicates which kind of service is being provided, and thus, in the obvious extension to "band"-organized services suggested by the admission as to prior art, which "band" is in use.

As in claim 6, "the primary audio control bands [Clayton's audio broadcasts] affect the audio control bands", and "when selected" (claims 7, 14, 20).

As per claim 8, with a "fourth button" that "is configured to save currently playing audio output" (see also claim 32), it has been noted that the action buttons 172 of Clayton's fig 2 may change from program to program. One of these can be "INFO" to

save extended information on something that is being broadcast (col 10, lines 26 – 36).

When taken in conjunction with Clayton's being a solution to the problem of recording of the radio in the vehicle at preset times for later playback (col 4, lines 15 – 29), it would have been further obvious to the person having ordinary skill in the art at the time of applicant's invention to use a Clayton action button to "save" as is recited, since this is a central goal of Clayton and Clayton already lets extended information be retained from real-time broadcasts.

The action button choices in Clayton clearly give a "fourth button" configuration "to select among a current task" for the program in play (claim 10). The "fifth button configured to select among a plurality of audio sources" (claim 11) can be reasonably interpreted to read upon the additional axis of functionality for selection provided by Clayton's channel selector 162.

That "the stored information is synchronized with an external computing device" (claim 12) follows from the ability in Clayton to handle Personal directory data, as from notebook computers, PDAs or cellular phones (col 12, lines 42 – 52).

Features of the "in-vehicle audio browser" recited in independent claim 13 have been already discussed, relative to claim 1. The "first set of buttons configured to select a preset item" have parallel in Clayton's preset button 166, while the "second button configured to select between a set of primary audio control bands and a set of conditional audio control bands" is suggested in the prevalence of "band"-selection controls on prior art systems as per applicant's admission, when extended to the larger set of broadcast and personal services contemplated by Clayton, with a "third button

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configured to select a band" being used as the hierarchy is navigated in Clayton by channel selector buttons.

A "conditional audio" requirement is established in the personal scenario (claims 15, 21), since the needed output, say, from stock quote or navigation services "do not affect the audio output" in Clayton "unless some action on the band requires audio output".

The "fourth button configured to activate a function that varies based on the band" (claim 17), as noted above with respect to claim 1, reads upon the action buttons 172 whose function is also soft-key mapped to depend upon "the selected band" (claim 18).

Independent claim 19's "user interface" also resembles a Clayton services screen arrangement, when modified for band selection as per the admitted prior art. The use of "a source button" for differentiation between "primary" and "conditional audio" reads upon the suggestion that existing "band" controls be applied to the world of extended broadcast and personal services in Clayton. When Clayton finally has such a "band" chosen, as by the channel selector control button, "a display device" (display screen 160) then provides information relevant to that band.

Certainly among the broadcast bands available in the admitted prior art set-up are "a radio band and a CD player band" (claims 22, 28), and within the personal services in Clayton, "navigation" and "a contact list" (claims 25, 29) are seen, as noted above with respect to claim 3.

The “computer-readable media” of independent claim 26 are of a type that would be employed, should the multimedia device 20 in Clayton be configured with “band” controls as per the admitted prior art. The “display” from among a “primary” and “conditional audio control band” is to be seen in Clayton, who provides both such services and an interactive screen in support of them, as noted above. The use of a “first car radio button” for “changing the currently selected car radio band” would follow from the maintenance of an admittedly prior art “band” selector in the environment of Clayton’s expanded services. Then, “moving through a list of items” is made possible with Clayton’s channel selector 162, the “second car radio button”.

In such a setting, by “using a set of preset buttons” (the Preset buttons 166), the Clayton user may “select a particular item” (claim 27). Also, the telephone integration disclosed by Clayton makes it possible to “CALL” to call a phone number (col 10, lines 26 – 26), as in claim 33’s ability to “dial a phone number currently displayed on the car radio in response to activation of an ACT button [a Clayton action button] on the car radio”.

4. Applicant’s arguments filed 2 May 2005 have been fully considered but they are not persuasive.

Applicant argues at page 11 of the response that “the channel selector buttons taught by Clayton enable a user to cycle forward or backward through a single list of all possible choices”, but that these “buttons do not, however, allow a user ‘to select between a first list of items and a second list of items associated with the audio browser’”, for “primary audio” and “conditional audio control bands”. However, given as

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applicant admits in the specification that band control buttons were used for such selection choices as AM, FM1, FM2 and CD, the suggestion is present that major categories in Clayton should have a similar arrangement of “band”-selection buttons, and thus have a more direct access to subcomponents of the displayed hierarchy, as is outlined in Clayton’s fig 5. There, applicant will note that the main subdivisions of AUDIO CHANNELS AND DATA/INFORMATION CHANNELS correspond directly to “primary” and “conditional” band designations, which may be then selected as sub-bands.

Applicant also argues (page 12) that “[a]pplicant’s own admission as to prior art in the present specification provides no assistance in light of Clayton”, by teaching that it was known in the art to select “a particular band”, since the admission fails to show a button for selection between “primary audio control bands” and “conditional audio control bands”. However, it is sufficient in the admission that “band” selection buttons were known, with the obviousness then resting in organizing a broader set of content categories as per Clayton.

The arguments advanced at pages 13 – 20 in support of independent claims 13, 19, 26 are essentially the same as the one treated above for claim 1—applicant asserts that the Clayton selection is from a single hierarchical list (but one which would obviously benefit by its major categories having “band” buttons as per the admitted prior art), and that the admitted prior art does not show the “primary” and “conditional audio control band” items (something that is, however, seen in Clayton). These arguments together are found not persuasive, for the reasons outlined above.

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5. Applicant's amendment necessitated the new ground(s) of rejection under 35 USC 112, second paragraph presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

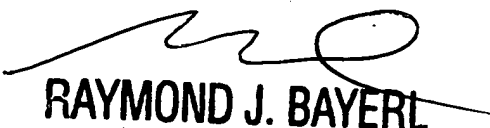
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (571) 272-4045. The examiner can normally be reached on M - Th from 9:00 AM to 4:00 PM ET.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (571) 272-4048. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (703) 872-9306.

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8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.



RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

29 June 2005